IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

WP(C).No. 22859 of 2006(U)

CMA.134/2004 of DISTRICT COURT, THRISSUR
OS.377/2004 of PRL.SUB COURT,IRINJALAKUDA

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PETITIONER: DEFENDANT IN O.S.377/2004 AND JUDGMENT DEBTER IN E.P.313/2005 OF THE PRINCIPAL SUB COURT, IRINJALAKUDA:

UNNIKRISHNAN, AGED 51 YEARS,
S/O.THAVALAKULANGARA APPU,
THAVALAKULANGARA HOUSE, THURAVANKADU DESOM,
PULLUR VILLAGE, MUKUNDAPURAM TALUK,
THRISSUR.

BY ADV. SRI.C.D.DILEEP

RESPONDENT: PLAINTIFF IN O.S.377/2004 AND DECREE HOLDER IN E.P.313/2005 OF THE PRINCIPAL SUB COURT, IRINJALAKUDA:

PRATHAPAN,
S/O.EZHUPURATHU SUBRAHMANIAN,
EZHUPURATHU HOUSE, THURAVANKADU DESOM,
PULLUR VILLAGE, MUKUNDAPURAM TALUK,
THRISSUR.

BY ADV. SRI.T.N.MANOJ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.22859/2006 U

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE PLAINT DTD. 7/10/2004 IN O.S.377/2004 OF THE PRINCIPAL SUB COURT, IRINJALAKUDA.**

EXT.P2: **COPY OF THE EXPARTE JUDGMENT DTD. 24/01/2005 IN O.S.377/2004 OF THE PRINCIPAL SUB COURT, IRINJALAKUDA.**

EXT.P3: **COPY OF THE ORDER DTD. 07/07/2006 E.P.313/2005 IN O.S.377/2004 OF THE PRINCIPAL SUB COURT, IRINJALAKUDA.**

EXT.P4: **COPY OF THE SALE PROCLAMATION DTD. 15/07/2006 IN E.P.313/2005 IN O.S.377/2004 OF THE PRINCIPAL SUB COURT, IRINJALAKUDA.**

/TRUE COPY/

KSS

M.N. KRISHNAN, J.

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W.P.(C) No.22859 OF 2006 U
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Dated this the 31st May, 2007

J U D G M E N T

This writ petition is filed to stay Exts. P3 and P4 orders of the Principal Sub Court, Irinjalakuda, till the disposal of C.M.A. 134/06 pending before the District Court, Thrissur.

2. Heard both sides.

3. The plaintiff has obtained an ex parte decree against the defendant for realisation of the amount and the defendant thereafter moved an application before the trial court to set aside the ex parte decree with a petition to condone the delay. The trial court did not entertain the applications and dismissed the same. Against the said order the defendant moved C.M.A. No. 134/06 before the District Judge, Thrissur. But the application for stay was not entertained by the said court. Since there was no stay the decree holder proceeded to execute the decree and it has reached the stage of proclamation of sale and it is those proceedings which the defendant wants to stop till the disposal of C.M.A. No. 134/06. On hearing both sides,

I feel that since an appeal for setting aside the ex parte decree is pending before the District Court it is just and necessary that further proceedings regarding the sale of the property be not proceeded and a direction be given to the District Judge to dispose of C.M.A. No. 134/06 within a time frame of two months. Therefore, the writ petition is disposed of as follows:

1. The Ist Additional District Judge, Thrissur, is directed to dispose of C.M.A. No. 134/06 pending before him within a period of two months from today.

2. Till the disposal of the C.M.A. the decree holder is directed not to proceed further with the sale and the executing court is also directed to defer the sale proceedings till that time.

M.N. KRISHNAN
JUDGE

jan/